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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 93-22
Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act	)	RM 7990

REPLY COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL

The American Public Communications Council ("APCC") submits the following reply comments in response to the Commission's Notice of Proposed Rulemaking and Notice of Inquiry ("Notice") in these proceedings, FCC 93-87, released March 10, 1993. APCC is a council of the North American Telecommunications Association ("NATA"), and is made up of more than 200 competitive providers of non-telephone company, or independent public payphones ("IPPs") and other public communications facilities, for whom fraudulent telephone charges are a major concern.

I. INTERSTATE PAY-PER-CALL SERVICES SHOULD BE LIMITED TO THE "900" AREA CODE TO SAFEGUARD AGAINST FRAUDULENT PRACTICES

The providers of pay-per-call services disagree with the Commission's tentative conclusion that interstate pay-per-call services should be limited to the "900" area code. See Comments of the National Association for Information Services at 14-16. They claim that prohibiting the use of "800" numbers and other numbers which are commonly understood to be toll free, coupled with the other protections mandated by the TDDRA, will protect subscribers from incurring unwanted pay-per-call charges. Id.

Unless pay-per-call services are restricted to the "900" area code, however, payphone fraud will proliferate. Payphone operators currently can guard against "900" pay-per-call fraud by blocking all "900" calls. By contrast, as explained in APCC's Comments, the use of blocking to avoid charges associated with pay-per-call services accessed through the "800" area code is not possible for a variety of reasons. See APCC Comments at 4-5. APCC believes that IPP providers would encounter many of the same problems associated with the blocking of "800" calls if other area codes are permitted to be used for pay-per-call services.

For example, as with "800" service, it would not be desirable for payphone owners to block all calls on another area code merely to prevent calls to pay-per-call services. Also, as in the case of "800" numbers, it would not be technically possible to selectively block numbers associated with pay-per-call services, even assuming those numbers could be identified in advance, which they cannot.[1] Therefore, payphone operators would be exposed to "collect" pay-per-call fraud utilizing non-"900" area codes because regulations in at least sixteen (16) states restrict the blocking

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[1] Telephone companies indicate that it is not feasible for them to offer blocking of numerous individual numbers as opposed

of incoming calls at payphones.[2] To minimize payphone providers' exposure to such fraud, APCC agrees that the Commission should restrict pay-per-call services to the "900" area code.

II. BILLING OF "800" PAY-PER-CALL SERVICES TO PAYPHONES SHOULD BE PROHIBITED WITHOUT QUALIFICATION

Most parties agree that all "800" number pay-per-call services are prohibited by the TDDRA, except for those involving a "calling party" who has a "preexisting agreement" with the service or who charges the call to a credit card or calling card. Section 64.1504(c) of the proposed regulations reflects these discrete exceptions to what would otherwise be an absolute ban on "800" pay-per-call services:

> Common carriers shall prohibit . . . the use of any telephone number beginning with an 800 service access code . . . in a manner that would result in . . . the calling party being charged for information conveyed during the call unless the calling party has a preexisting agreement to be charged for the information or discloses a credit or charge card number and authorizes a charge to that credit or charge card number during the call. . . .

In its Comments, APCC requested that the Commission clarify its rules to prohibit the billing of any and all "800" pay-per-call charges to IPPs. _See_ APCC Comments at 3-9. In APCC's view only an absolute prohibition will prevent a proliferation of fraud in the payphone industry. APCC believes that any exceptions to

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2 According to APCC's information, states which restrict the blocking of incoming calls at payphones include Alabama, Florida, Georgia, Idaho, Indiana, Maryland, Michigan, Nevada, New Hampshire, New Mexico, North Carolina, Pennsylvania, South Carolina, Tennessee, Washington and Wyoming.

the prohibition (including those included in Section 64.1504(c)) are unacceptable because they will invite payphone fraud.

Most important, as explained in APCC's initial comments in this proceeding, payphone lines often are billed for pay-per-call services as third-party and credit card billing. In such cases, the payphone line is billed for the pay-per-call service as if the payphone's telephone number[3] is a credit card number for which a bill can be generated. See APCC Comments at 7. Only by prohibiting the billing of any "800" calls to payphones, as APCC proposes, can these substantial sources of payphone fraud be eliminated.

III. BILLING OF ALL "COLLECT" CALLS TO PAYPHONES SHOULD BE PROHIBITED TO PREVENT FRAUD

Section 64.1505 of the Commission's proposed regulations prohibits the billing of transmission charges for "collect" pay-per-call calls to "subscribers" for "audio information services or simultaneous voice conversation services" unless the called party "accepts" the charges for the call. Section 64.1505 of the proposed regulations provides, in its entirety:

> No common carrier shall provide transmission services billed to the subscriber on a collect basis for audio information services or simultaneous voice conversation services unless the called party has taken affirmative

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[3] When a call is made to a pay-per-call service from an IPP, automated number identification ("ANI") is transmitted to the carrier. ANI identifies the particular subscriber line from which the call originated. The number then can be used to generate a bill for the call. See APCC Comments at 5.

action clearly indicating that it accepts the charges for the collect service.

APCC has explained that a blanket prohibition against charging all "collect" calls to payphones is necessary to prevent fraud because a party intent on defrauding the payphone provider will always "accept" the charges for the calls. See APCC Comments at 9.

In their comments, carriers claim that they cannot abide by Section 64.1505's prohibition directed at "collect" calls involving "audio information services or simultaneous voice conversation services" because current technology does not permit them to distinguish between "collect" calls associated with such pay-per-call services and other "collect" calls. See, e.g., Comments of Bell Atlantic at 4; Comments of the Southern New England Telephone Company at 4; Comments of Cincinnati Bell Telephone Company at 2; see also AT&T Comments at 8.

Carriers' inability to differentiate between collect calls associated with pay-per-call services, and all other collect calls, does not provide a basis for removing the restriction against billing of all collect calls to payphones. As explained in APCC's comments, current call screening technology does enable the LECs and IXCs to determine which telephone lines receiving "collect" calls are payphones and which are not. Billed number screening already "flags" payphones as lines to which "collect" calls should not be billed. Therefore, there is no reason why the LECs and other carriers cannot comply with a restriction on billing of all "collect" charges to payphones.[4]

[4] Some carriers' suggestion that subscribers who are billed for fraudulent pay-per-call "collect" charges can prevent service disconnections, or can avoid paying a fraudulent charge, by identifying the fraud and reporting it to the carriers places an unacceptable burden on IPP providers -- and ultimately exposes IPP providers to disconnection or collection suits in the event that the carriers do not agree to strike the charge. In any event, such a "solution" presents too haphazard a method for addressing a problem that is of critical concern to the payphone industry. See Comments of the Southern New England Telephone Company at 4 ("[T]here does not appear any way to prevent inadvertent disconnections or interruptions for non-payment of these charges unless identified by the customer.")

CONCLUSION

The TDDRA and the Commission's proposed regulations, designed to prevent abuses in the pay-per-call industry, promise significant relief to a payphone industry plagued by fraud. To further this end, the American Public Communications Council requests that the Commission adopt the additions and amendments to its proposed regulations described herein and in APCC's Comments.

Respectfully submitted,

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